



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/642,388	08/18/2000	Edward J. Bawolek	042390.P5751C	1183

7590 12/27/2004
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

EXAMINER

WU, JINGGE

ART UNIT PAPER NUMBER

2623

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/642,388

Applicant(s)

BAWOLEK ET AL.

Examiner

Jingge Wu

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-43 is/are pending in the application.
4a) Of the above claim(s) 37-43 is/are withdrawn from consideration.
5) ☐ Claim(s) 28-36 is/are allowed.
6) ☐ Claim(s) 23-27 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Applicants' response to the last Office Action, filed July 20, 2004 has been entered and made of record. According to the interview conducted on May 1, 2004, the preliminary amendment filed on September 22, 2000, has been entered and made of record.

The rejection of claims 1-21 are rendered moot by applicant's cancellation of those claims. claims 37-43 are withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 22-23, 25, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by US 5982957 to DeCaro et al.

As to claim 22, DeCaro discloses A method to calibrate imager device responses, comprising:

- presenting a plurality of light radiating sources (fig. 17-19, 202-218);
- producing a first set of responses based the plurality of light radiating sources (col. 11 lines 10-45, note that this can be the first sub-set of response);
- producing a second set of responses by exposing an imager device to the plurality of light radiating sources (col. 11 lines 10-45, note that this can be subsequent subset response); and
- determining calibrating coefficients from the first set of responses and the second set of responses (col. 11, lines 44-45, col. 7 lines 1-64).

As to claim 23, DeCaro further discloses the method of claim 22, wherein presenting a plurality of light radiating sources includes presenting three to more than five light emitting diodes (202-218), wherein each light emitting diode includes a different spectral radiation characteristic within the spectral sensitivity of the human visual system (figs. 17-19).

As to claim 25, DeCaro further discloses the method of claim 22 wherein producing the first set of responses includes mapping the first set of responses as red, green, and blue values into a plurality of XYZ tristimulus values (col. 9 lines 14-41).

As to claim 27, DeCaro further discloses the method of claim 22 wherein exposing the imager device to the plurality of light radiating sources includes illuminating the imager device sequentially with each of the light radiating sources (fig. 20, col. lines 10-45).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeCaro.

As to claim 24, DeCaro further discloses presenting three to more than five light emitting diodes includes presenting five light emitting diodes having the peak wavelengths of 660nm, 592nm, 550nm, 474nm, and 456nm but does not explicitly mention 590nm, 545nm, 470nm, and 430nm.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the LEDs of peak wavelengths of 592nm, 550nm, 474nm, and 456nm instead of 590nm, 545nm, 470nm, and 430nm. Applicant has not disclosed that using LEDs of peak wavelengths of 590nm, 545nm, 470nm, and 430nm that provides a particular advantage, or for a particular purpose or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the LEDs disclosed in DeCaro because there are very minor difference of the peak wavelengths.

Therefore, it would have been obvious to combine to one of ordinary skill in this art to modify LEDs with to obtain the invention as specified in claim 24.

Art Unit: 2623

As to claim 26, DeCaro further discloses producing the first set of responses based on the plurality of light radiating sources but does not expressly mention includes exposing a spectrophotometer to the plurality of light radiating sources.

However, Examiner takes Official Notice that exposing a spectrophotometer to the plurality of light radiating sources is notoriously well known in the art.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the spectrophotometer exposed to the plurality of light radiating sources in order to get accurate reference color response.

Allowable Subject Matter

Claim 28 is allowed. Claims 29-36 depend from claim 28 are, therefore, allowed.

Contact Information

Any inquiry concerning this communication or earlier communications should be directed to Jingge Wu whose telephone number is (703) 308-9588. He can normally be reached Monday through Thursday from 8:00 am to 5:30 pm. The examiner can be also reached on second alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to TC customer service whose telephone number is (703) 306-0377.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Amelia Au, can be reached at (703) 308-6604.

The Working Group Fax number is (703) 872-9314.

Jingge Wu

Primary Patent Examiner

